HON'BLE SRI G.S. SINGHVI, THE CHIEF JUSTICE

AND

HON'BLE SRI JUSTICE G.V. SEETHAPATHY

WRIT PETITION No. 11489 OF 2006

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Between:

Ketha Venkata Lakshmi

……Petitioner

And

Government of Andhra Pradesh,
Rep. by its Principal Secretary,
Panchayat Raj Department,
Secretariat, Hyderabad and three others

……Respondents

:: ORDER ::

Counsel for the Petitioner : Sri N.V. Anantha Krishna

Counsel for Respondent Nos.1 and 2 : Government Pleader for Panchayat Raj

Counsel for Respondent Nos.3 and 4 : None

Dated: 15-06-2006

Per G.S. SINGHVI, CJ

This is a petition for issue of a mandamus to the respondents to merge Ramanayyapeta, Vakalapudi, Thimmapuram, Sarpavaram, Ganganapalli, Indrapalem, Chidiga, Kovvada, Turangi, Penuguduru, Thammavaam and Nemam Villages in the area of Municipal Corporation of Kakinada by de-notifying the Gram Panchayats well before finalization of the voters list. Another prayer made in the writ petition is to direct the State Election Commission not to issue election notification in respect of that 12 Villages.

The petitioner claims to be the Sarpanch of Gram Panchayat, Indrapalem. She has averred that Kakinada has been making rapid strides in the field of industrialization and the Sate Government has declared it to be a Municipal Corporation by issuing notification dated 6-1-2005. She has further averred that even though Gram Panchayats of 12 Villages have passed resolutions for merger of their areas with Kakinada Municipal Corporation, the State Government has not taken concrete step in this direction and now elections are being held for these panchayats.

We have heard Sri N.V. Anantha Krishna, Advocate for the petitioner and perused the record. In our opinion, there is no valid ground to restrain the respondents from holding election for 12 Gram Panchayats on the pretext that a decision is likely to be taken by the Government for merger of those panchayats into the limits of Kakinada Municipal Corporation.

In so far as the petitioner's prayer for issue of a direction to respondent Nos. 1 and 2 to take steps for merger of 12 Gram Panchayats into Kakinada Municipal Corporation is concerned, we find that after passing of resolution dated 14-7-2005 by Gram Panchayat Indrapalem, the petitioner and the concerned Gram Panchayats and the villagers did not take any steps to seek Government's intervention for issue of merger notification. Learned counsel for the petitioner made strenuous efforts to convince that his client has been making oral representation for merger of the Gram

Panchayat into Municipal Corporation, Kakinada, but we have not felt impressed. When the Gram Panchayat passed resolution for merger of the area within the limits of Kakinada Municipal Corporation, being its head, it would have been natural for the petitioner to pursue the same and try to convince the Government that issue of merger notification is in the interest of the people of the villages. However, the fact of the matter is that after 14-7-2005, the petitioner is not shown to have made any representation for merger of the area of Gram Panchayat, Indrapalem within the limits of Kakinada Municipal Corporation, and this, by itself, is sufficient to decline her prayer for issue of mandamus.

The petitioner's prayer for restraining the respondents from notifying election is clearly misconceived and is liable to be rejected. The very fact that the petitioner has relied on an interlocutory order passed by the learned Single Judge in Writ Petition No. 10574 of 2006 and connected matters and learned counsel for the petitioner oblivious of the fact that the said order has been reversed by the Division Bench on 9-6-2006 shows that real motive of the petitioner is to somehow or other persuade the Court to pass an order which would result in frustrating the impeding election. Article 243-O of the Constitution contains an absolute embargo on the entertaining of challenge to an election, otherwise than by way of election petition. Therefore, in the face of notification dated 10-6-2006 issued by the State Election Commission for holding elections, this Court cannot pass any order which will have the effect of interrupting the process of election. This view of ours is based on the Constitution Bench judgments of the Supreme Court in **N.P. Ponnuswami vs. The Returning Officer**[1] and **Mohinder Singh Gill v. Chief Election Commissioner**[2] and three Judges Bench judgment in **Election Commission of India vs. Ashok Kumar**[3].

No other point has been urged.

In the result, the writ petition is dismissed. However, it is made

clear that this order will not operate as a bar to the making of representation by the petitioner to the State Government for issue of a notification for merger of the area of Gram Panchayat, Indrapalem into the limits of Kakinada Municipal Corporation.

As a sequel to the dismissal of the writ petition, W.P.M.P No.14271 of 2006 filed by the petitioner for issue of direction to the respondents not to issue election notification in respect of 12 villages without taking a final decision on the merger of these villages into Kakinada Municipal Corporation is disposed of as infructuous.

G.S.SINGHVI, CJ

G.V. SEETHAPATHY, J

15-06-2006
ks/GRR/svs

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[1] AIR 1952 SC 64
[2] AIR 1978 SC 851
[3] AIR 2000 SC 2979